

# SENATE BILL No. 121

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 27-18; IC 34-30-2-119.8.

**Synopsis:** Health benefit purchasing cooperatives. Authorizes health benefit purchasing cooperatives.

**Effective:** July 1, 2007.

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January 11, 2007, read first time and referred to Committee on Health and Provider Services.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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## SENATE BILL No. 121

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 27-18 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 2007]:

4 **ARTICLE 18. HEALTH BENEFIT PURCHASING**  
5 **COOPERATIVES**

6 **Chapter 1. Definitions**

7 **Sec. 1. The definitions in this chapter apply throughout this**  
8 **article.**

9 **Sec. 2. "Board" refers to the board of directors elected by a**  
10 **health benefit purchasing cooperative.**

11 **Sec. 3. "Commissioner" refers to the insurance commissioner**  
12 **appointed under IC 27-1-1-2.**

13 **Sec. 4. "Covered individual" means an individual covered under**  
14 **a health benefit plan provided through a health benefit purchasing**  
15 **cooperative.**

16 **Sec. 5. (a) "Eligible employee" means an individual who works**  
17 **for a single employer at least thirty (30) hours per week.**

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IN 121—LS 6184/DI 97+



(b) The term includes:

- (1) a sole proprietor;
- (2) a partner; and
- (3) an independent contractor;

if the individual is considered an employee under an employer health benefit plan.

(c) The term does not include an employee who:

- (1) works on a part-time, temporary, seasonal, or substitute basis;
- (2) is covered under:
  - (A) another health benefit plan; or
  - (B) a self-funded or self-insured employee welfare benefit plan that provides health benefits and is established in accordance with the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.); or
- (3) elects not to be covered under the employer's health benefit plan and is covered under:
  - (A) the Medicaid program under IC 12-15;
  - (B) a federal program, including Medicare (42 U.S.C. 1395 et seq.); or
  - (C) a health benefit plan established in another country.

Sec. 6. "Employer health benefit plan" means a health benefit plan issued or delivered to cover the employees of an employer.

Sec. 7. (a) "Health benefit plan" means the following:

- (1) A group policy or a certificate of coverage under a group policy of accident and sickness insurance (as defined in IC 27-8-5-1).
- (2) A health maintenance organization group contract (as defined in IC 27-13-1-16).

(b) The term does not include the following:

- (1) Accident only insurance.
- (2) Credit only insurance.
- (3) Disability insurance or disability income insurance.
- (4) Medicare (42 U.S.C. 1395 et seq.), a Medicare supplement, or a Medicare select benefit plan regulated under federal law.
- (5) Long term care insurance, nursing home care insurance, home health care insurance, or community based care insurance.
- (6) Limited scope dental or vision insurance.
- (7) Workers' compensation insurance.
- (8) Coverage provided through a jointly managed trust that is authorized under 29 U.S.C. 141 et seq. and contains a plan

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of benefits for employees that is negotiated in a collective bargaining agreement governing wages, hours, and working conditions of employees that is authorized under 29 U.S.C. 157.

(9) Hospital indemnity or other fixed indemnity insurance.

(10) Reinsurance contracts issued on a stop-loss, quota share, or similar basis.

(11) Short term major medical contracts.

(12) Liability insurance, including general liability insurance and automobile liability insurance, and coverage issued as a supplement to liability insurance coverage, including automobile medical payment insurance.

(13) Coverage for onsite medical clinics.

(14) Coverage that provides other limited benefits specified by federal regulation.

(15) Other coverage that is:

(A) similar to the coverage described in this subsection under which benefits for medical care are secondary or incidental to other coverage benefits; and

(B) specified by federal regulations.

Sec. 8. "Health benefit plan issuer" means an entity authorized under this title to issue or deliver a health benefit plan in Indiana.

Sec. 9. "Health status related factor" means any of the following:

(1) Health status.

(2) Medical condition, including mental and physical condition.

(3) Claims experience.

(4) Receipt of health care.

(5) Medical history.

(6) Genetic information.

(7) Evidence of insurability, including conditions arising out of acts of family violence.

(8) Disability.

Sec. 10. "Insurance producer" has the meaning set forth in IC 27-1-15.6-2.

Sec. 11. (a) "Large employer" means a person, including a governmental entity, that:

(1) employs at least two (2) eligible employees on the first day of the plan year; and

(2) employed an average of at least fifty-one (51) eligible employees on business days during the preceding calendar

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year.

(b) For purposes of this section, a partnership is the employer of a partner.

Sec. 12. "Large employer health benefit plan" means a health benefit plan offered to a large employer.

Sec. 13. "Person" means an individual or a business entity.

Sec. 14. "Premium" means amounts paid by an employer and eligible employees as a condition of receiving coverage from a health benefit plan issuer, including fees or other contributions associated with a health benefit plan.

Sec. 15. "Private purchasing cooperative" means a group of two (2) or more employers established to purchase coverage under an employer health benefit plan.

Sec. 16. (a) "Small employer" means a person, including a governmental entity, that:

(1) employs at least two (2) eligible employees on the first day of the plan year; and

(2) employed an average of at least two (2) eligible employees and not more than fifty (50) eligible employees on business days during the preceding calendar year.

(b) For purposes of this section, a partnership is the employer of a partner.

Sec. 17. "Small employer health benefit plan" means a health benefit plan that is offered:

(1) in compliance with IC 27-8-15; and

(2) to a small employer.

## Chapter 2. Establishment of a Health Benefit Purchasing Cooperative

Sec. 1. (a) Two (2) or more small employers may form a health benefit purchasing cooperative to purchase coverage under a small employer health benefit plan.

(b) Two or more large employers may form a health benefit purchasing cooperative to purchase coverage under a large employer health benefit plan.

(c) A small employer and a large employer may not participate in the same health benefit purchasing cooperative.

Sec. 2. A health benefit purchasing cooperative established under section 1 of this chapter must be organized as a nonprofit corporation under IC 23-17.

Sec. 3. Upon receipt from the secretary of state of notice that a health benefit purchasing cooperative's articles of incorporation have been filed under IC 23-17-3, the health benefit purchasing

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cooperative shall file with the commissioner:

- (1) written notice of the receipt of the notice from the secretary of state; and
- (2) a copy of the health benefit purchasing cooperative's organizational documents.

Sec. 4. A health benefit purchasing cooperative's board shall annually file with the commissioner a statement of amounts collected and expenses incurred by the health benefit purchasing cooperative for each of the three (3) preceding years.

#### Chapter 3. Immunity

Sec. 1. A health benefit purchasing cooperative or a member of the board, the executive director, or an employee or agent of a health benefit purchasing cooperative is not liable for:

- (1) an act performed in good faith in the execution of duties in connection with the health benefit purchasing cooperative; or
- (2) an independent action of:
  - (A) a health benefit plan issuer; or
  - (B) a person who provides health care services under a health benefit plan.

#### Chapter 4. Functions of a Health Benefit Purchasing Cooperative

Sec. 1. A health benefit purchasing cooperative shall:

- (1) arrange, by contracting with health benefit plan issuers that meet the requirements of IC 27-18-5, for:
  - (A) small employer health benefit plan coverage for small employer groups; or
  - (B) large employer health benefit plan coverage for large employer groups;
 that participate in the health benefit purchasing cooperative;
- (2) collect premiums to cover the cost of:
  - (A) health benefit plan coverage purchased through the health benefit purchasing cooperative; and
  - (B) the health benefit purchasing cooperative's administrative expenses;
- (3) establish administrative and accounting procedures for the operation of the health benefit purchasing cooperative;
- (4) establish procedures under which an applicant for or participant in coverage issued through the health benefit purchasing cooperative may have a grievance reviewed by an impartial person;
- (5) contract with health benefit plan issuers to provide services to participating employers; and

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(6) develop and implement a plan to maintain public awareness of the health benefit purchasing cooperative and publicize the:

(A) eligibility requirements for; and

(B) procedures for enrollment in;

coverage through the health benefit purchasing cooperative.

**Sec. 2. A health benefit purchasing cooperative may:**

(1) contract with a health benefit plan issuer or a third party administrator to provide administrative services to the health benefit purchasing cooperative;

(2) negotiate premiums paid by a participating employer; and

(3) obtain for participating employers ancillary products and services that are customarily offered in conjunction with a health benefit plan.

**Sec. 3. A health benefit purchasing cooperative may not limit, restrict, or condition an employer's or employee's participation in a health benefit purchasing cooperative, or an employer's or employee's choice among health benefit plans, based on:**

(1) risk characteristics; or

(2) health status related factors, duration of coverage, or a similar characteristic related to the health status or experience;

of a group or a member of a group.

**Sec. 4. A health benefit purchasing cooperative may not self-insure or self-fund a health benefit plan or part of a health benefit plan.**

**Sec. 5. A health benefit purchasing cooperative shall comply with federal and state laws that apply to:**

(1) the health benefit purchasing cooperative; and

(2) a health benefit plan issued through the health benefit purchasing cooperative.

#### **Chapter 5. Health Benefit Plan Issuers**

**Sec. 1. A health benefit purchasing cooperative may contract with a health benefit plan issuer to provide coverage through the health benefit purchasing cooperative only if the health benefit plan issuer demonstrates that it:**

(1) is in good standing with the department of insurance;

(2) has the capacity to administer a health benefit plan;

(3) is able to monitor and evaluate the quality and cost effectiveness of health care services and procedures;

(4) is able to perform utilization management and establish utilization management policies and procedures;

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(5) is able to ensure that covered individuals have adequate access to health care providers, including adequate numbers and types of health care providers;

(6) has a satisfactory grievance procedure and is able to respond to the calls, questions, and complaints of covered individuals; and

(7) has adequate financial capacity, either through:

(A) satisfying financial solvency standards applied by the commissioner; or

(B) appropriate reinsurance or other risk sharing mechanisms.

**Sec. 2. (a) A health benefit plan issuer may do the following:**

(1) Elect not to provide coverage for a health benefit purchasing cooperative.

(2) Provide coverage for one (1) or more health benefit purchasing cooperatives.

(3) Select the health benefit purchasing cooperatives for which the health benefit plan issuer provides coverage.

(b) A health benefit plan issuer may not be a participating employer of a health benefit purchasing cooperative.

#### **Chapter 6. Status as Employer**

**Sec. 1. (a) Except as provided in subsection (b), a health benefit purchasing cooperative is considered an employer solely for the purpose of benefit elections under this article.**

**(b) A group of small employers that:**

(1) forms a health benefit purchasing cooperative;

(2) employs a total of at least two (2) eligible employees on the first day of the plan year; and

(3) employed an average total of at least two (2) eligible employees and not more than fifty (50) eligible employees on business days during the preceding calendar year;

**is considered a single small employer for purposes of this article and IC 27-8-15.**

**(c) A group of small employers that:**

(1) forms a health benefit purchasing cooperative;

(2) employs at least two (2) eligible employees on the first day of the plan year; and

(3) employed an average total of at least fifty-one (51) eligible employees on business days during the preceding calendar year;

**is considered a large employer for purposes of this article and IC 27-8-15.**

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**Chapter 7. Miscellaneous**

**Sec. 1. IC 27-8-5-16 does not limit the type of group that may be covered by a health benefit plan issued through a health benefit purchasing cooperative.**

**Sec. 2. (a) An employer's participation in a health benefit purchasing cooperative is voluntary.**

**(b) Except as provided in the rules adopted under subsection (c), an employer that participates in a health benefit purchasing cooperative shall purchase health benefit plan coverage through the health benefit purchasing cooperative for at least two (2) consecutive years.**

**(c) The commissioner shall adopt rules under IC 4-22-2 to provide for the termination of a participating employer's participation in a health benefit purchasing cooperative if the participating employer experiences a financial hardship.**

**Sec. 3. An insurance producer or third party administrator that provides services to and is compensated by a health benefit purchasing cooperative must be licensed as required under this title.**

**SECTION 2. IC 34-30-2-119.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 119.8. IC 27-18-3-1 (Concerning health benefit purchasing cooperatives).**

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